

**ALASKA STATE LEGISLATURE**  
**HOUSE LABOR AND COMMERCE STANDING COMMITTEE**

March 3, 2021

6:03 p.m.

**MEMBERS PRESENT**

Representative Zack Fields, Co-Chair (via teleconference)  
Representative Ivy Spohnholz, Co-Chair  
Representative Calvin Schrage (via teleconference)  
Representative Liz Snyder (via teleconference)  
Representative David Nelson (via teleconference)  
Representative James Kaufman  
Representative Ken McCarty

**MEMBERS ABSENT**

All members present

**COMMITTEE CALENDAR**

HOUSE BILL NO. 36

"An Act relating to an application for a license to operate as a dealer in motor vehicles; and requiring a dealer in motor vehicles to maintain liability and property insurance."

- HEARD & HELD

HOUSE BILL NO. 30

"An Act relating to notice of workers' compensation death benefits; relating to the payment of workers' compensation benefits in the case of permanent partial impairment; relating to the payment of workers' compensation death benefits; and providing for an effective date."

- HEARD & HELD

CONFIRMATION HEARING(S):

Board of Dental Examiners

Kelly Lucas - Dillingham

- HEARD AND HELD

Board of Massage Therapists

Julie Endle - Palmer

- HEARD AND HELD

Board of Nursing

Catherine Hample - Wasilla

- HEARD AND HELD

Board of Pharmacy

James Hendersen - Soldotna

Tammy Lindemuth - Anchorage

- HEARD AND HELD

**PREVIOUS COMMITTEE ACTION**

BILL: HB 36

SHORT TITLE: MOTOR VEHICLE DEALERS: APPLIC.; INSURANCE

SPONSOR(s): REPRESENTATIVE(s) CLAMAN

02/18/21	(H)	PREFILE RELEASED 1/8/21
02/18/21	(H)	READ THE FIRST TIME - REFERRALS
02/18/21	(H)	L&C, FIN
03/03/21	(H)	L&C AT 5:45 PM BARNES 124

BILL: HB 30

SHORT TITLE: WORKERS' COMP: DEATH; PERM PARTIAL IMPAIR

SPONSOR(s): REPRESENTATIVE(s) JOSEPHSON

02/18/21	(H)	PREFILE RELEASED 1/8/21
02/18/21	(H)	READ THE FIRST TIME - REFERRALS
02/18/21	(H)	L&C, FIN
03/03/21	(H)	L&C AT 5:45 PM BARNES 124

**WITNESS REGISTER**

REPRESENTATIVE MATT CLAMAN

Alaska State Legislature

Juneau, Alaska

**POSITION STATEMENT:** As prime sponsor, presented HB 36.

SOPHIE JONAS, Staff

Representative Matt Claman

Alaska State Legislature

Juneau, Alaska

**POSITION STATEMENT:** Presented the sectional analysis for HB 36 on behalf of Representative Claman, prime sponsor.

JEFFERY SCHMITZ, Director  
Division of Motor Vehicles  
Department of Administration  
Anchorage, Alaska

**POSITION STATEMENT:** Answered questions during the hearing on HB 36.

MARCUS WAEHLER  
Alaska Automotive Dealer Association  
Anchorage, Alaska

**POSITION STATEMENT:** Testified in support of HB 36.

MARTIN MARTINSEN, Owner  
Continental Auto Group  
Anchorage, Alaska

**POSITION STATEMENT:** Testified in support of HB 36.

STEVE ALLWINE, Owner  
Mendenhall Auto  
Juneau, Alaska

**POSITION STATEMENT:** Testified in support of HB 36.

REPRESENTATIVE ANDY JOSEPHSON  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** As prime sponsor, presented HB 30..

ELISE SORUM-BIRK, Staff  
Representative Andy Josephson  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Presented HB 30 via a PowerPoint presentation on behalf of Representative Josephson, prime sponsor.

CHARLES COLLINS, Director  
Division of Workers' Compensation  
Department of Labor and Workforce Development  
Juneau, Alaska

**POSITION STATEMENT:** Answered questions during the hearing on HB 30.

KELLY LUCAS, Appointee

Board of Dental Examiners  
Dillingham, Alaska

**POSITION STATEMENT:** Spoke as an appointee to the Board of Dental Examiners.

JULIE ENDLE, Appointee  
Board of Massage Therapists  
Palmer, Alaska

**POSITION STATEMENT:** Spoke as an appointee to the Board of Massage Therapists.

CATHERINE HAMPLE, Appointee  
Board of Nursing  
Wasilla, Alaska

**POSITION STATEMENT:** Spoke as an appointee to the Board of Nursing.

JAMES HENDERSON, Appointee  
Board of Pharmacy  
Soldotna, Alaska

**POSITION STATEMENT:** Spoke as an appointee to the Board of Pharmacy.

TAMMY LINDEMUTH, Appointee  
Board of Pharmacy  
Anchorage, Alaska

**POSITION STATEMENT:** Spoke as an appointee to the Board of Pharmacy.

#### **ACTION NARRATIVE**

[6:02:56 PM](#)

**CO-CHAIR IVY SPOHNHOLZ** called the House Labor and Commerce Standing Committee meeting to order at 6:02 p.m. Representatives Spohnholz, McCarty, Snyder (via teleconference), Schrage (via teleconference), and Nelson (via teleconference) were present at the call to order (via teleconference). Representative Kaufman arrived as the meeting was in progress.

#### **HB 36-MOTOR VEHICLE DEALERS: APPLIC.; INSURANCE**

[6:04:12 PM](#)

**CO-CHAIR SPOHNHOLZ** announced that the first order of business would be HOUSE BILL NO. 36, "An Act relating to an application for a license to operate as a dealer in motor vehicles; and

requiring a dealer in motor vehicles to maintain liability and property insurance."

6:05:03 PM

REPRESENTATIVE MATT CLAMAN, Alaska State Legislature, as prime sponsor, presented HB 36. He paraphrased from the Sponsor Statement[hard copy included in the committee packet], which read as follows [original punctuation provided]:

The purpose of House Bill 36 is to improve consumer protections for those purchasing motor vehicles by strengthening the requirements for motor vehicle dealers. Under current law, a motor vehicle dealer in Alaska must register biennially by filling out an application that requires an address, but not a valid telephone number. The application must be accompanied by a \$50 registration fee and a surety bond of \$50,000. There is no current requirement that dealers carry liability insurance even though Alaska requires drivers to have liability insurance for their vehicles--and dealers may allow uninsured drivers to take dealer-owned cars for a test drive.

Alaska's current statutory requirements for motor vehicle dealers are some of the least stringent in the country. By way of comparison, here are the requirements for an automobile dealership application to be valid in other states:

- Oregon - Chapter 822 of Oregon State Statutes provides for civil penalties for acting as a vehicle dealer without a certificate (.005-.009), the processes of applying for, and maintaining, an automobile dealer license and related exemptions, requirements, and privileges (.025-.042), grounds for revocation, suspension, or cancellation of the dealership certificate (.050), and further definition of illegal practices and associated penalties (.055-.080).

- Delaware - Title 21, Chapter 63 of the Delaware State Statutes provides for proof-of location requirements and recordkeeping (§ 6303), license expiration and renewal procedures (§ 6304), retention of bill of sale records for a period of at least five years (§6305), in addition to grounds for revocation of dealer licenses (§ 6313);

- Texas - Title 14, Subtitle A, Chapter 2301 of the state's Occupations Code provides for public interest information and complaint procedures (Subchapter E), licensing requirements (Subchapter F), license expiration and renewal (Subchapter G), dealer operations (Subchapter H), grounds for license revocation (Subchapter N), as well as procedures for complaint hearings, judicial review, and penalties (Subchapters O, P, and Q).

Comparatively speaking, Alaska Statutes Title 8, Chapter 66 addresses the application form (.040) and registration renewal (.050); sets the minimum bond amount (.060), defines allowable action on bonds and defines failure to file a bond as a class A misdemeanor (.070, .080); and holds the dealer responsible for maintaining a record of each motor vehicle transaction (.320). Unlike Texas, Oregon, and Delaware, there are no statutes explicitly providing for a grievance process nor grounds for revocation of the license in question.

HB 36 aims to strengthen consumer protection by addressing two scenarios that may create problems for both consumers and dealers:

HB 36 seeks to provide better protection when one selling dealer sells multiple vehicles to a buying dealer and receives payment without providing titles (the titles are being held by the bank that provides a credit line for purchasing vehicles). The selling dealer plans to pay for the vehicles and get the titles, but runs into financial difficulties and is unable to continue making payments. When this happens, the bank repossesses the vehicles from the buying dealer. The buying dealer has now lost the money and decides to seek recompense from the selling dealer's bond. At present, the bond requirement under state law is \$50,000, which, depending on the type and quantity of vehicles, may be only a fraction of what is owed. Raising the bond amount will help protect the buying dealer in the event that the bank repossesses their new stock.

Another scenario that this bill addresses is "curbstoning," which is the act of selling used vehicles under the false pretense of being the car's

owner in order to evade regulations that are imposed on state-licensed automobile dealers. When a dealer obtains a license, they are qualified to purchase cars at "dealer only" auctions at steep discounts. In these scenarios, the dealer is not required to disclose the fact that they are a licensed car dealer or that the vehicle has a reconstructed title or has known defects. If deemed a personal vehicle, the vehicle is not subject to a routine safety inspection. Often, the title is not placed in the dealer's name, the contact information provided is not the dealer's information, or the transaction takes place in cash, leaving little paper trail for the consumer to follow if issues arise. Requiring a verified working telephone number increases the consumer's ability to locate the dealer.

HB 36 would help protect against these two scenarios by requiring that those registering as motor vehicle dealers include more detailed information about their business in the application, register a bond for \$100,000 instead of \$50,000, and maintain liability insurance that covers collisions with dealer-owned cars.

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SOPHIE JONAS, Staff, Representative Matt Claman, Alaska State Legislature, offered the Sectional Analysis to HB 36 [hard copy included in the committee packet] on behalf of Representative Claman, prime sponsor. The Sectional Analysis read as follows [original punctuation provided]:

Section 1

*AS 08.66.030. Form of application.*

Adds the following requirements to dealer registration applications:

- a valid telephone number for the business;
- a statement that no person holding a five percent or greater interest in the business has been convicted of a felony involving fraud, embezzlement, or misappropriation of property within five years preceding the date of application;
- a statement acknowledging that the applicant has reviewed the requirements for workers' compensation insurance and will maintain workers' compensation insurance under AS 23.30, if applicable; and

- a copy of the liability insurance policy in compliance with section 3 of this bill.

#### Section 2

*AS 08.66.060. Bond.*

Raises the amount of the bond required for dealer registration applicants from \$50,000 to \$100,000.

#### Section 3

*AS 08.66.085. Insurance requirements.*

Adds a new section to AS 08.66 that requires dealers maintain public liability and property damage insurance of not less than \$50,000 for property damage, \$100,000 for injury to a single person, and \$200,000 for injury, including death, to more than one person.

MS. JONAS concluded by inviting questions from the committee.

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REPRESENTATIVE MCCARTY posed a question to Representative Claman about how the bill would impact private individuals who are selling their personal cars or have several cars that they are selling over a period of time. He asked for clarification on the bill's purpose.

REPRESENTATIVE CLAMAN responded that the bill would have no impact on individuals making private sales.

REPRESENTATIVE MCCARTY directed attention to language on page 2, line 7 of the bill, which read as follows:

(8) a statement that the applicant has reviewed the workers' compensation insurance requirements of AS 23.31 and will maintain applicable workers' compensation insurance as required under AS 23.30;

REPRESENTATIVE MCCARTY asked for clarification.

REPRESENTATIVE CLAMAN explained that since some people are not aware of the requirement to provide workers' compensation, this language would protect employees and ensure that smaller car dealers are aware of that law [by requiring a statement signed to that effect].

[6:12:31 PM](#)



REPRESENTATIVE SNYDER asked Representative Claman if he could speak about the motivation behind one of the new requirements for dealer applications [in Section 1, paragraph (7) of HB 36, on page 2, lines 3-6], which read as follows:

(7) a statement that no person holding a five percent or greater interest in the business has, during the five-year period immediately preceding the date of the application, been convicted of a felony involving fraud, embezzlement, or misappropriation of property;

REPRESENTATIVE CLAMAN responded that the interest in this bill came from motor vehicle dealers. The Motor Dealer Association came to his office and expressed concerns about people that may be in the motor dealer business who had recent convictions, and asked how to best protect consumers. He stated that the goal in paragraph (7) was to make that limitation as narrow as possible and to ensure that the convictions were specifically related to crimes relevant to the auto business, such as fraud and financial crimes, that took place in the past five years. He and his staff thought that five years would be a reasonable amount of time to allow someone to get back into the business.

[6:14:11 PM](#)

REPRESENTATIVE NELSON asked about the prevalence of curb-stoning.

REPRESENTATIVE CLAMAN shared that two of the invited testifiers are car dealers and that these testifiers will be able to address that question better, but that he knows that it goes on. Some consumers buy vehicles online and do not realize that they are purchasing from a dealer, he added.

REPRESENTATIVE NELSON asked what the current recourse is to those people injured by curb-stoning.

REPRESENTATIVE CLAMAN said that there is no recourse if the consumer doesn't know they are purchasing from a dealer.

REPRESENTATIVE NELSON asked if this would be addressed in the bill.

REPRESENTATIVE CLAMAN responded that there is a larger statutory structure that involves requirements for motor vehicle dealers and requirements for their business, such as inspection

requirements. The bill increases transparency of dealers and the statute applies to the dealers as well. He added that he would be happy to meet with Representative Nelson outside of the meeting to discuss the details of the statutes if Representative Nelson would like more information.

[6:16:43 PM](#)

REPRESENTATIVE MCCARTY asked about felonies and whether background checks would be mandated for all car business owners.

REPRESENTATIVE CLAMAN answered no, the bill doesn't mandate a background check. There are a limited group of felonies that fit the description, he said. If individuals misrepresent themselves, there are criminal penalties that would apply.

[6:17:46 PM](#)

REPRESENTATIVE KAUFMAN mentioned the requirement for dealerships to provide the name and make of all vehicles handled. He commented that it might be beneficial to hear from the testifiers on that topic.

REPRESENTATIVE CLAMAN explained that Representative Kaufman is referring to line 13, paragraph (4) of Section 1 and deferred his question to a testifier on the phone, Jeffrey Schmitz.

REPRESENTATIVE KAUFMAN questioned how that information is provided in common practice and whether complying with it has ever been a problem.

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JEFFERY SCHMITZ, Director, Division of Motor Vehicles, Department of Administration, responded that the Division of Motor Vehicles (DMV) does not monitor this issue.

CO-CHAIR SPOHNHOLZ asked what the practice is for listing the name and make of all vehicles handled, and whether used vehicles are handled. She asked how that is done specifically and whether there is a standard practice.

MR. SCHMITZ responded that this is a required document that is filled out at the time of application by a person applying for a dealership license.

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REPRESENTATIVE CLAMAN shared his understanding that the application in question is a short form that is one to two pages long, and that it strikes him that if he were a used car salesperson and sold every make and model of car, filling out that application would require pages and pages of possible cars that one might sell. He asked how it is filled in today and how much information is required.

CO-CHAIR SPOHNHOLZ interjected and asked if Mr. Schmitz could provide a sample of the application form, which might help inform a future conversation.

MR. SCHMITZ responded yes.

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CO-CHAIR SPOHNHOLZ opened invited testimony.

[6:22:53 PM](#)

MARCUS WAEHLER, Alaska Automotive Dealer Association, gave some history of his experience in the automotive industry, which involved 12 years of purchasing vehicles through auctions, managing inventories, seeing vehicles through inspections, and 12 subsequent years of working at the helm of a small dealership in Anchorage, Alaska called Red White & Blue Auto Sales. He shared that he began to notice some negative changes in the industry about seven years ago, and brought his concerns to the Alaska Automotive Dealer Association. He shared his opinion that Alaska's dealer licensing requirements are the most deficient in the country. In Alaska, he explained, an individual can obtain a dealer's license and begin purchasing through dealer-only auctions by paying a \$50 dollar registration fee and a \$500 dollar bond. He added that some unscrupulous dealers will sell cars in various states of disrepair from these auctions discreetly on Craigslist without having done any inspections or disclosure, and there is no recourse for this activity. The unwitting consumer doesn't know they purchased from a dealer, and the fraud is complete, he said. He shared that he goes to these auctions frequently and sees cars that were at an auction posted on Craigslist "before the sun sets" that same day as private party sales. He estimated that this happens thousands of times a year.

MR. WAEHLER concluded with a personal story about a woman who had visited his dealership recently with a car that she wanted

to trade in. He performed an inspection and looked up the information about the vehicle using an application ("app") on his phone by using the vehicle identification number (VIN) and found that the woman had purchased the vehicle on Craigslist from a private seller for \$6,500 dollars. He continued that she had only had the vehicle for a few weeks and it had a value of about \$2,000 by the time she brought it to him. A further inspection illuminated him to the fact that the oil pressure light in the engine had been removed, and according to the information he retrieved using the app on his phone, this light had been on when the car went through auction. He shared that this woman was 86 years old, and that this is a regular occurrence.

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REPRESENTATIVE KAUFMAN directed attention to the statement provided to the committee from the Alaska Automobile Dealer Association, which mentions "no disclosure of reconstructed title, no disclosure of known defects," and he asked about the process of a vehicle getting a reconstructed title. If a vehicle is wrecked, totaled, and sold, he asked if that process puts a "salvage" indication on the title.

MR. WAEHLER responded that yes, an indication is added to the title, however there is often a delay in the processing time. He explained that one of the ways that this can happen is that the status of the title hasn't been changed from clean to reconstructed, or that the title is not readily available and the unwitting consumer doesn't even know to check for that information. He gave an example of a couple who came to him with a vehicle they bought at full retail price with a clean title, which had been financed by a bank. When the couple got the title back, he continued, they discovered that the title and the vehicle were both reconstructed. The couple purchased the vehicle from a dealer and they had no contact information and no recourse.

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CO-CHAIR SPOHNHOLZ asked what the process is for changing the title to reflect that it is reconstructed. She asked who bears the responsibility for ensuring that that happens.

MR. WAEHLER answered that he thinks the DMV is responsible for that, but he is not sure of the exact process.

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CO-CHAIR SPOHNHOLZ posed the same question to Mr. Schmitz.

MR. SCHMITZ responded that the DMV is informed through a number of means about the status of the vehicle, for example, the insurance company could inform the DMV after an accident has occurred, or a consumer could inform the DMV. He shared that once a vehicle and a title are branded as "reconstructed," that brand will remain for the remainder of the life of the vehicle.

CO-CHAIR SPOHNHOLZ asked if someone were to reconstruct a vehicle and not make the appropriate change in the title, what the penalty would be for that indiscretion.

MR. SCHMITZ answered that he thinks that falls into the category of a court case. He said that the seller of the vehicle is responsible for providing a current title that reflects the current state of the vehicle. He does not know the legal implications of failing to disclose that information.

[6:32:45 PM](#)

CO-CHAIR SPOHNHOLZ posed the question again to Representative Claman.

REPRESENTATIVE CLAMAN responded that he doesn't know what the penalty is for falsifying information. He said he thinks that there are requirements in the statutes. He shared his understanding that it is the dealer's responsibility to ensure that the information on the title is accurate, but that small dealers are not required to check the title for inaccuracies, only large ones.

CO-CHAIR SPOHNHOLZ asked if Representative Claman could bring an answer to that question back to the committee meeting the next time it hears HB 36.

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MR. WAEHLER added that what usually happens when an individual has a vehicle that has been wrecked but still has a clean title because a new title has not been processed yet, is the individual sells the vehicle with the old clean title and there is no disclosure of the wreckage. When that title gets transferred into the new owner's name, that is often when the reconstructed status gets discovered, he said. When this

happens, there is no paper trail that shows that the vehicle has been reconstructed.

6:35:03 PM

MARTIN MARTINSEN, Owner, Continental Auto Group, said that his business is in Anchorage, Alaska and he noted that he is a board member of the Alaska Auto dealer Association. He began by answering the earlier question about the requirement to provide the make and model of all cars sold on the dealer application, and shared that that pertains only to new car franchise dealers.; it does not pertain to used car dealers. He continued by talking about how often curbstoning happens, and he agreed that it happens quite frequently. He said that in fact, former Alaska Attorney General Ed Sniffen said that curbstoning was one of the largest complaints that Mr. Sniffen got.

MR. MARTINSEN gave an example of curbstoning in his personal life in which a friend of his who was interested in buying a Mazda-3 went to Mr. Martinsen for his opinion on that make and model. He said that he shared with his friend that Mazda-3 cars have a great consumer report and are "typically a very good car." He offered to look up the VIN for his friend in order to tell him if there were any problems with the car. When he looked up the car, he discovered that his dealership had just sold that exact car three day earlier at a dealer's auto auction. Mr. Martinsen contacted his manager about the car, and was told by the manager that the car had a bad transmission. The dealership chose to sell the car at auction instead of replacing the transmission because it would've been too expensive, and he continued that both the dealership and the auction was aware that the car would be sold "as is" and that there was no warranty for it. An individual purchased this car from the auction, and it was on Craigslist the next day, he said. He reiterated that the Office of the Attorney General receives this complaint repeatedly, and he shared his opinion that the proposed legislation would help add more requirements to the process to get rid of these "shady characters" getting dealer licenses.

6:40:21 PM

REPRESENTATIVE MCCARTY asked how this bill would remedy the situation that Mr. Martinsen described.

MR. MARTINSEN replied that it would not. He stated that there was a lot of discussion about the extent of the requirements,

and the restrictiveness that was determined to be appropriate is what is in the legislation. He shared that there were members on the board that wanted the requirements to be more stringent and there were others who felt differently, and the compromise is what can be seen in the bill.

REPRESENTATIVE MCCARTY asked if car dealers currently have liability insurance.

MR. MARTINSEN responded that no, they do not have to have liability insurance. He commented that Continental Auto Group has insurance in order to be a franchise dealer, but that would be one of the additional requirements.

REPRESENTATIVE MCCARTY asked for clarity as to whether mandating liability insurance would be the remedy.

MR. MARTINSEN responded yes, absolutely. He added that curbstoning is fraud but it's very difficult to prove it has occurred. The individuals committing this fraud are able to buy a car from Craigslist and sign it over to a new unsuspecting buyer without leaving a paper trail.

[6:43:13 PM](#)

STEVE ALLWINE, Owner, Mendenhall Auto, Member of Alaska Automobile Association, Board member of the Alaska Auto Dealer Association, commented that the object of the legislation is not to preclude people from the auto dealer industry, it is to make the requirements more stringent to discourage the individuals committing fraud from being able to enter the industry. He opined that HB 36 is a positive step in the right direction, but it would not fix everything.

[HB 36 was held over.]

**HB 30-WORKERS' COMP: DEATH; PERM PARTIAL IMPAIR**

[6:44:37 PM](#)

CO-CHAIR SPOHNHOLZ announced that the next order of business would be HOUSE BILL NO. 30, "An Act relating to notice of workers' compensation death benefits; relating to the payment of workers' compensation benefits in the case of permanent partial impairment; relating to the payment of workers' compensation death benefits; and providing for an effective date."

[6:44:45 PM](#)

REPRESENTATIVE ANDY JOSEPHSON, Alaska State Legislature, as prime sponsor, presented HB 30. He stated that the proposed bill is fairly straightforward. He shared that the catalyst for the bill originally was his learning about a young woman who had died in an electrical accident, and since she did not have a spouse or have children, there was no one to sue on her behalf. He explained that there was no workers' compensation remedy under title AS 23. This situation made him interested in worker's compensation and researching AS 23. He shared that when he began investigating this seven or eight years ago, he discovered that Alaska's permanent partial impairment rating had not been updated since the year 2000, and it still has not been updated to this day. He explained that a permanent partial impairment rating refers to situations in which a person lives through an injury, but has a permanent disability rating due to a body part no longer functioning properly because of permanent injuries sustained from the accident.

REPRESENTATIVE JOSEPHSON continued by sharing the formula for what he referred to as the "whole body number" which is multiplied by the percentage of disability. He cited Section 2 of HB 30 on page 2:

**\* Sec. 2.** AS 23.30.190(a) is amended to read:

(a) In case of impairment partial in character but permanent in quality, and not resulting in permanent total disability, the compensation is \$273,000 [\$177,000] multiplied by the employee's percentage of permanent impairment of the whole person. The percentage of permanent impairment of the whole person is the percentage of impairment to the particular body part, system, or function converted to the percentage of impairment to the whole person as provided under (b) of this section. The compensation is payable in a single lump sum, except as otherwise provided in AS 23.30.041, but the compensation may not be discounted for any present value considerations.

REPRESENTATIVE JOSEPHSON shared that the impact of amending this legislation is that Alaska would move from "something like the forty-fifth [most generous] state" in terms of workers' compensation, with only four states less generous than Alaska, "to the middle of the pack." He reiterated that the key component of the bill is to update permanent partial impairment.



6:48:07 PM

REPRESENTATIVE JOSEPHSON explained that he had originally proposed a death benefit to be included in the bill for individuals such as the previously mentioned woman who died childless and without a spouse; however, that addition was met with objection during the drafting of the bill and was removed. He emphasized that the bill in its current state is "almost strictly" an inflation adjustment that updates various numbers in workers' compensation law. He noted that he said "almost strictly" because the bill also creates notice requirements for death benefits and also for the process of getting grievance counseling.

REPRESENTATIVE JOSEPHSON continued that the theory behind the bill is the following: if an unmarried and childless 18-year-old person died on a construction worksite, the person's parents would have no remedy to the individual's death because they couldn't sue in personal injury. He shared his thought process that the employer should notify their employees that workers' compensation will not provide anything in the case of the employees' death, and that the employees should get life insurance to be fully covered.

REPRESENTATIVE JOSEPHSON directed attention to page 3 of HB 30 and shared that the bill would update funeral costs from \$10,000 to \$12,000. It would also update an amendment that was last adjusted in 1968 by increasing compensation for individuals that were dependent upon a deceased individual, but do not qualify as direct descendants, from \$20,000 to \$150,000.

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REPRESENTATIVE JOSEPHSON then directed attention to Section 5 of the bill. He said currently when a parent dies and leaves a child with no other parent providing for the child, under law, the child would receive workers' compensation benefits through age 19 and then would get benefits for another four years if attending vocational school or college. Under Section 5, that benefit would extend to individuals who might be in the military instead of vocational school or college. He added that the bill has two fiscal notes, which net out to around \$270,000 as a cost to the state.

REPRESENTATIVE JOSEPHSON concluded that his office received a letter from the Alaska Municipal League (AML) in opposition to the bill; however, he noted that the last paragraph of the

letter states that the key feature of the bill, the permanent partial impairment rating, should be changed. Not only that, he added, but the letter states that the rating should be inflation proof, which is a suggestion that is more extensive than what is being proposed under HB 30.

[6:53:14 PM](#)

ELISE SORUM-BIRK, Staff, Representative Andy Josephson, Alaska State Legislature, offered a PowerPoint presentation on HB 30 on behalf of Representative Josephson, prime sponsor. She began on slide 2 of her presentation, "Four Major Goals," and listed the goals, which read as follows [original punctuation provided]:

- To adjust Permanent Partial Impairment (PPI) rates for inflation
- To adjust rates for funeral expenses and death benefits for inflation
- To ensure that workers are made aware of the disparity in benefits for single and childless workers
- to clarify the law relating to benefit payments for orphan children after age 19

MS. SORUM-BIRK proceeded to slide 3, "Permanent Partial Impairment (PPI) rates have not been adjusted for inflation since 2000," and reiterated that PPI is based on percentage of the whole body. She summarized the slide and explained that the method of calculating PPI was established in 1988 and has only been updated once since then in the year 2000. She shared that HB 30 adjusts the \$177,000 PPI rate established in 2000 to \$273,000 to account for inflation.

[6:55:49 PM](#)

MS. SORUM-BIRK continued to slide 4, "'How much is a limb worth -ProPublica,'" which included a graphic from a report done by ProPublica showing the comparison of how much a limb is worth in Alaska compared to the national average based off PPI rates. She shared that the graphic is customizable and committee members can go to the website to see how Alaska compares to other states.

MS. SORUM-BIRK moved on to slide 5, "The death benefit paid to non-child dependents has not been adjusted in over 50 years," and said that other than PPI rates, the bill would also update

some death benefit rates. She summarized the slide, which read as follows [original punctuation provided]:

- Under AS 23.20.215(a)(4) the death benefit paid to a dependent father, mother, grandchild, brother or sister is a maximum of only \$20,000
- This amount was set in 1968
- HB 30 amends this statute to adjust for inflation and sets new amount at \$150,000

MS. SORUM-BIRK advanced to slide 6, "Lump sum amounts for funeral expenses and one-time payments to widow or widower are updated," and explained that there are two more updated dollar amounts outlined in Section 4 of the bill, which are lump sum amounts for funeral expenses and one-time payments to a widow or widower of the deceased. She gave examples from the slide, which read as follows [original punctuation provided]:

- Under AS 23.30.215(a)(1) the cap amount for funeral expenses is set at a maximum of \$10,000
  - HB 30 sets new amount at \$12,000
- Under AS 23.30.215(a)(5) the lump sum amount given to a widow/widower (or child if no surviving spouse) expenses is set at \$5,000
  - HB 30 adjusts this amount to \$8,000
- The current rates for both benefits were established in 2000.

MS. SORUM-BIRK continued to slide 7, "Definition of 'child,'" and shared that a child is defined differently for workers' compensation purposes. She read the definition from the slide, which read as follows [original punctuation provided]:

- AS 23.30.395(8) includes
- "persons who are under 19"
- "persons who, though 19 years of age or over, are wholly dependent upon the deceased employees and incapable of self-support by reason of mental or physical disability"
- "persons of any age while they are attending the first four years of vocational school, trade school, or college"
- "persons of any age while attending high school"
- HB 30 creates a new subsection AS 23.30.215(j) that extends the payment for

"dependent children" (whose single parent died at work) to age 23 across the board.

[6:59:42 PM](#)

MS. SORUM-BIRK proceeded to slide 8, "The Elevator Paradigm," and explained that it shows how few benefits a single and childless worker would receive compared to their married counterpart with children. The slide read as follows [original punctuation provided]:

What damages do they receive?

Customer-

- Economic damages
- Non-economic damages
- Pain and Suffering
- Loss of Consortium
- Punitive
- Up to \$1.5 million

Single childless worker -

- Funeral Expenses

MS. SORUM-BIRK moved on to slide 9, "The parent or estate of a single worker with no dependents who dies on the job has no remedy," and shared that Section 1 of HB 30 addresses providing notice to employees about the available death benefits and how those benefits differ for single childless workers. She emphasized the importance of single childless workers being made aware of the difference in benefits. The slide read as follows [original punctuation provided]:

- Under current law single workers without dependents are the only class of worker who receives only funeral expenses
- Parents cannot collect worker's compensation
- HB 30 does not add a new benefit for this class of workers like previous iterations of this legislation have
- HB 30 adds a new section AS 23.10.435 to provide all employees with notice of a death benefits and to make them aware of the lack of benefits for single workers without dependents

[7:01:51 PM](#)

REPRESENTATIVE MCCARTY asked what the increases in workers' compensation have been over the years.

REPRESENTATIVE JOSEPHSON interjected that he believes workers' compensation has decreased, not increased.

[7:02:43 PM](#)

MS. SORUM-BIRK responded that between 2004 and 2017 there was a 27 percent decline in the amount spent by businesses on workers' compensation related to total wages paid. Comparatively, indemnity benefits decreased from \$0.65 to \$0.38 per \$100 spent on wages between 2004 and 2017. Overall, indemnity benefits shrunk by 40.8 percent during that time period.

[7:03:51 PM](#)

CO-CHAIR FIELDS added that workers' compensation rates have decreased by more than 50 percent in the last four years, which has been driven by a decline in on-the-job injuries. He shared that Alaska is now tenth in the nation whereas a few years ago, Alaska was first.

[7:04:20 PM](#)

REPRESENTATIVE KAUFMAN stated that he just performed an online search and shared that the search shows Alaska as having the highest workers' compensation rate.

CO-CHAIR SPOHNHOLZ asked for his source.

REPRESENTATIVE KAUFMAN said that the website he found, "howmuch.com, understanding money," used the workers' compensation information sourced from the National Academy of Social Insurance in 2017.

[7:05:40 PM](#)

CO-CHAIR FIELDS shared that the number Representative Kaufman found was correct years ago but is not correct anymore. He said that he would be happy to follow up on this and get Representative Kaufman the correct figures.

[7:05:58 PM](#)

REPRESENTATIVE JOSEPHSON explained that part of what Representative Kaufman may be referring to is the high cost of medical care. He said that HB 30 does not concern the cost of health care, it concerns situations of death. Some of the factors that contribute to the higher costs of workers' compensation in Alaska wouldn't apply in this situation, he explained. He added that this bill should cost the state some money since the purpose of it is to increase the amount of money paid to people who are permanently disabled. He continued with an example, sharing that if a person in Alaska lost an index finger while working, the person would only get about \$5,000 in compensation. If an individual were to lose an arm in Nevada, that person would get \$800,000, while in Alaska the benefit is just over \$100,000. The median in the country for a lost arm is \$170,000, he said. He reiterated that the intended purpose is to address permanent disability or death.

[7:08:06 PM](#)

CO-CHAIR SOHNHOLZ thanked Representative Josephson for the important clarification.

[7:08:36 PM](#)

REPRESENTATIVE NELSON asked what the impact to premiums would be for workers' compensation.

MS. SORUM-BIRK responded that that information is included in the fiscal note from the Department of Labor & Workforce Development that is in the packets that members received.

[7:09:34 PM](#)

CHARLES COLLINS, Director, Division of Workers' Compensation, shared that the National Council of Commercial Insurance (NCCI) - the actuarial for the State of Alaska - did a workup on HB 30 and found that rates would increase by 2.9 percent if the bill were implemented January 1, 2022. He noted that on January 1, 2021, insurance rates had been lowered for the eighth year in a row by 14 percent.

[7:10:59 PM](#)

CO-CHAIR SPOHNHOLZ announced HB 30 was held over.

**CONFIRMATION HEARING(S) :**

**Board of Dental Examiners**

**Board of Massage Therapists**

**Board of Nursing**

**Board of Pharmacy**

[7:11:46 PM](#)

CO-CHAIR SPOHNHOLZ announced that the final order of business would be confirmation hearings for the governor's appointees to the various boards.

[7:12:11 PM](#)

KELLY LUCAS, Appointee, Board of Dental Examiners, shared that he has been a dentist in Alaska for 35 years, has served as a public health service officer, has served as a dental officer in the Army National Guard, and has served in private practices. He has served on the island of Saint Paul, Alaska and in Naknek, Alaska in collaboration with those cities and boroughs, and currently has private practices in Anchorage, Naknek, and Dillingham. He stated that he thinks that his broad experience in these "mini dental walks of life" brings perspective. He has served on the board for two years and he shared that he plans to serve another four with the legislature's support.

[7:13:54 PM](#)

CO-CHAIR SPOHNHOLZ opened public testimony on the confirmation hearing of Kelly Lucas, appointee to the Board of Dental Examiners. After ascertaining that there was no one who wished to testify, she closed public testimony.

[7:14:11 PM](#)

JULIE ENDLE, Appointee, Board of Massage Therapists, shared that she is currently serving as a public board member on the Board of Massage. She said that she is adept at noticing details and scrutinizes every line when the board receives an application. She stated that she has been serving for a couple of years, she is excited to learn more, and she considers the opportunity an honor.

[7:15:38 PM](#)

REPRESENTATIVE MCCARTY asked how many years Ms. Endle has served and how many more years the appointment would allow.

MS. ENDLE said that she has served for two years and believes that the appointment is for another two years.

[7:16:19 PM](#)

CO-CHAIR SPOHNHOLZ asked what Ms. Endle's interest is in the board.

MS. ENDLE responded that she loves massage and that when she was asked if she would be interested in serving on a board, the Board of Massage was one of the available options. She's learned that the position is a lot more demanding than she originally expected, and she has learned more about massage itself. She shared that she is excited to continue learning more. She added that it was pointed out that the board was created for [regulation] of human trafficking and sex trafficking and she believes that the board has been able to thwart applications of traffickers attempting to come to Alaska to get licensed here.

CO-CHAIR SPOHNHOLZ asked about the change in regulations relating to licensure for massage therapists which would require additional licensure for every practice where a massage therapist works. She asked what the rationale was for making that change.

MS. ENDLE questioned if this regulatory change had occurred before she joined the board. She shared her understanding that in order to practice massage therapy, one must be licensed.

[7:20:16 PM](#)

REPRESENTATIVE MCCARTY said that this regulatory change is currently being considered. This would include a rate increase to \$300 per site at which a massage therapist practices. He asked if she had any information about that regulatory change.

MS. ENDLE responded that "per site" applies to establishments, and that the board requires that the board be notified when there is an establishment with a new license.

REPRESENTATIVE MCCARTY asked whether a massage therapist who worked at a chiropractic office one day a week and an athletic



club on another would have to pay the \$300 fee or whether each establishment would have to pay the \$300 fee.

MS. ENDLE clarified that the establishment pays the \$300. The licensed massage therapists do not have to pay the fee if they work in different establishments.

REPRESENTATIVE MCCARTY asked if the fee is per massage therapist or per establishment.

MS. ENDLE responded that the fee is per establishment. If, for example, she were to open up a spa and employ ten massage therapists, she would pay \$300 total, she said.

[7:23:19 PM](#)

CO-CHAIR FIELDS expressed his appreciation to Ms. Endle and the other board members for their work on human trafficking.

CO-CHAIR SPOHNHOLZ echoed Co-Chair Fields' sentiment.

[7:23:42 PM](#)

CO-CHAIR SPOHNHOLZ opened public testimony for the confirmation hearing of Julie Endle, appointee to the Board of Massage Therapists. After ascertaining that there was no one who wished to testify, she closed public testimony.

[7:24:06 PM](#)

CATHERINE HAMPLE, Appointee, Board of Nursing, shared that she is a registered nurse and has been in nursing for 46 years. She started in entry-level positions and got her bachelor's degree, completed three master's degrees, and worked on her doctorate degree. She shared that she likes supporting nurses and ensuring that they are practicing safely.

CO-CHAIR SPOHNHOLZ asked why Ms. Hample is interested in serving on the board.

MS. HAMPLE responded that she wants to ensure that safe care is delivered to Alaskans and that students get the necessary education when they go through the nursing programs.

CO-CHAIR SPOHNHOLZ noted that Ms. Hample is an adjunct professor for the School of Nursing at the University of Alaska and asked what she teaches.

MS. HAMPLE replied that she was, but is now teaching at Charter College. She said she teaches topics such as pharmacy, bedside nursing, critical care, and medical surgery.

CO-CHAIR SPOHNOLZ asked if Ms. Hample was doctor.

MS. HAMPLE responded in the affirmative.

CO-CHAIR SPOHNHOLZ referred to Dr. Hample as such, and stated that she tries to recognize people's education when possible.

[7:25:50 PM](#)

REPRESENTATIVE MCCARTY asked Ms. Hample to share any concerns she may have regarding the board.

MS. HAMPLE responded that she thinks the board is doing really well but needs an executive director. The search has begun for candidates for that position, and she explained that other board members are currently performing the duties of the executive director in the meantime.

[7:26:55 PM](#)

CO-CHAIR SPOHNHOLZ opened public testimony on the confirmation hearing of Catherine Hample, appointee to the Board of Nursing. After ascertaining that there was no one who wished to testify, she closed public testimony.

[7:27:17 PM](#)

JAMES HENDERSON, Appointee, Board of Pharmacy, said that he is a working pharmacist and graduated from pharmacy school in 1995. He worked for a pharmacy in Soldotna, Alaska, for a number of years and then purchased a pharmacy in Soldotna that serves the Kenai Peninsula which he runs to this day. He shared that he's been on the board for the past few years and wants to be able to continue to serve on the board and keep the people of Alaska safe and do his civic duty.

[7:28:45 PM](#)

REPRESENTATIVE MCCARTY asked if Mr. Henderson could share some concerns he has regarding pharmacy and distribution of medication.

MR. HENDERSON explained that some of the things the board has been working on are the controlled substance issue and opioid abuse. He shared that they have been adjusting to the impact of COVID-19 and that they are working on making it possible for technicians to administer vaccines, including the COVID-19 vaccines.

[7:30:15 PM](#)

CO-CHAIR SPOHNHOLZ opened public testimony on the confirmation hearing for James Henderson, appointee to the Board of Pharmacy. After ascertaining that there was no one who wished to testify, she closed public testimony.

[7:30:57 PM](#)

TAMMY LINDEMUTH, Appointee, Board of Pharmacy, explained that she has served on a public seat for three years on the Board of Pharmacy and that this is a renomination for another four years. She said that she has a science degree and has worked as a medical language specialist in various fields for the past 25 years. It's been "a treat" to be able to help out in the medical field in this capacity, she said. Some of her duties have included helping out with the opioid epidemic, being the chair of the Controlled Substance Advisory Committee, and learning what Alaska is doing in order to make the state healthier and safer.

[7:32:21 PM](#)

CO-CHAIR SPOHNHOLZ asked Ms. Lindemuth what motivated her to serve on the board.

MS. LINDEMUTH said she wanted to help out and make a difference. She said it brings her a sense of purpose to feel like she is helping in the opioid epidemic.

CO-CHAIR SPOHNHOLZ agreed that the board has done important work particularly on the prescription monitoring program and that she is appreciative of the work and progress they have been able to make.

[7:33:15 PM](#)

CO-CHAIR SPOHNHOLZ opened public testimony on the confirmation hearing of Tammy Lindemuth, appointee to the Board of Pharmacy.

After ascertaining that there was no one who wished to testify, she closed public testimony.

[7:33:32 PM](#)

CO-CHAIR SPOHNHOLZ clarified that Ms. Hample had completed her studies in pursuing a doctorate in nursing but has not yet completed her dissertation, and is therefore not officially a doctor at this time.

[The confirmations of Catherine Hample, appointee to the Board of Nursing, Kelly Lucas, appointee to the Board of Dental Examiners; Julie Endle, appointee to the Board of Massage Therapists; and James Henderson and Tammy Lindemuth, appointees to the Board of Pharmacy, were treated as held over.]

[7:34:52 PM](#)

#### **ADJOURNMENT**

There being no further business before the committee, the House Labor and Commerce Standing Committee meeting was adjourned at 7:35 p.m.